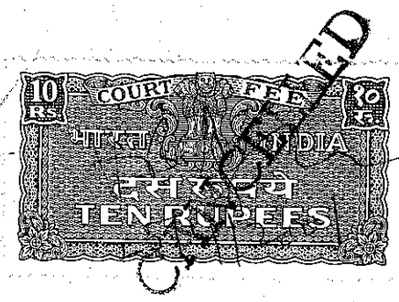

(3)

P. R. No. 768/07
Presented by Shri Pankaj A. Parwal
dated 26.4.07

BEFORE THE HON`BLE HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 736 Of 2001

PETITION UNDER ARTICLE 227 OF CONSTITUTION OF INDIA

PETITIONER : Rupendra Kumar Chandrakar, son of D.S Chandrakar, aged about 35 years, Resident of Village Bharar, Tahsil Patan, District Durg (Chhattisgarh).

V E R S U S

RESPONDENTS :

1. State of M.P, through the Collector, District Durg(Chhattisgarh),
2. Tahsildar, Patan, District Durg(Chhattisgarh),
3. Additional Commissioner, Raipur Division, Raipur(Chhattisgarh),
4. Board of Revenue through it`s member, Gwalior, District Gwalior (M.P),
5. Ghasi Ram, son of Manihar, resident of Rewagahan, Tahsil Patan, District Durg (Chhattisgarh),
6. Additional Collector, Durg, District Durg (Chhattisgarh)

(4)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.736/2001 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	1.5.2001 : Mr.Pankaj Agrawal for the petitioner. Mr.Gautam Bhaduri for the respondent. Mr.Bhaduri states that this matter should not be examined on merits in asmuch as the matter concerns a some facts which can be examined only by the appropriate forum provided under the provisions of law. Learned counsel for the petitioner submits that the matter is pending before the appellate authority i.e. additional commissioner - respondent no.3 herein. Since the impugned notice by which the petitioner has been demanded to pay a sum of Rs. 1,08,752/- has not been stayed, it will cause extreme hard-ship unless the matter is examined and disposed of finally by the appellate authority before any recovery is sought from the petitioner. In other words the submission of the learned counsel for the petitioner is that atleast to the extent that in the interest of justice recovery of the aforesaid sum of money should remain stayed before final disposal of the appeal. According to the learned counsel for the petitioner the prayer for stay of recovery has been rejected by the additional commissioner and also by the board	

..2

[पीछे देखिये

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित ...2...	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

of Revenue - respondent no.4.

May be Mr.Bhaduri is right to say that certain facts will have to be determined to arrive at a reasonable conclusion by the appropriate authority. In this view of the matter this court may not interfere as far as the matter that involves consideration and determination of certain facts. However, I am of the view that when the appropriate forum is yet to determined, the actual facts which will enable to appropriate authority to come to appropriate conclusion it will meet the ends of justice if the recovery sought for to be made from the petitioner is stayed in as much as to do so, in my view it will not be against the interest of justice.

In the result, this petition is disposed of with a direction that during the pendency of the appeal before respondent no.3, additional commissioner, recovery pursuant to notice-annexure P-4 shall remain stayed.

Sd/-
Chief Justice

GRPRJ—FS/311—1/2001—50,000.

C/215/615